United Nations A/56/1002–S/2002/745

General Assembly
Security Council

Distr.: General
10 July 2002
English
Original: Spanish

General Assembly
Fifty-sixth session
Agenda item 166
Measures to eliminate international terrorism

Security Council
Fifty-seventh year

Letter dated 8 July 2002 from the Permanent Representative of Mexico to the United Nations addressed to the Secretary-General

I have the honour to transmit the text (in English and Spanish) of the Inter-American Convention against Terrorism, adopted at the thirty-second regular session of the General Assembly of the Organization of American States, held at Bridgetown, Barbados on 3 June 2002 (see annex).

I should be grateful if you would have the text of the Convention circulated as a document of the General Assembly, under agenda item 166 entitled "Measures to eliminate international terrorism", and of the Security Council.

(*Signed*) Adolfo Aguilar **Zinser**
Permanent Representative of Mexico to the United Nations

02-47659 (E) 260702 290702

Annex to the letter dated 8 July 2002 from the Permanent Representative of Mexico to the United Nations addressed to the Secretary-General

[Original: English and Spanish]

AG/RES. 1840 (XXXII-O/02)

INTER-AMERICAN CONVENTION AGAINST TERRORISM

(Adopted at the second plenary session held on June 3, 2002)

THE GENERAL ASSEMBLY,

REAFFIRMING the principles and provisions contained in the Charter of the Organization of American States and the Charter of the United Nations;

RECOGNIZING the threat that terrorism poses to democratic values and international peace and security, and that it is a source of profound concern to all member states;

CONVINCED that the Charter of the Organization of American States and international law constitute the appropriate framework for strengthening hemispheric cooperation for the prevention, combating, and elimination of terrorism in all its forms and manifestations;

BEARING IN MIND resolution RC.23/RES. 1/01 rev. 1 corr. 1, "Strengthening Hemispheric Cooperation to Prevent, Combat, and Eliminate Terrorism," of the Twenty-Third Meeting of Consultation of the Ministers of Foreign Affairs of September 21, 2001, which entrusted the Permanent Council with preparing a Draft Inter-American Convention against Terrorism;

RECALLING the Declaration of Lima to Prevent, Combat, and Eliminate Terrorism and the Plan of Action on Hemispheric Cooperation to Prevent, Combat, and Eliminate Terrorism, adopted within the framework of the First Inter-American Specialized Conference on Terrorism, in Lima, Peru, in April 1996, as well as the Commitment of Mar del Plata, adopted at the Second Inter-American Specialized Conference on Terrorism, and the work of the Inter-American Committee against Terrorism (CICTE);

CONSIDERING that terrorism is a serious criminal phenomenon, which is of deep concern to all member states; attacks democracy; impedes the enjoyment of human rights and fundamental freedoms; threatens the security of states, destabilizing and undermining the foundations of all society; and seriously impacts the economic and social development of the states in the region;

BEARING IN MIND that the Inter-American Democratic Charter recognizes the commitment by member states to promote and defend representative democracy and that no democratic state can be indifferent to the clear threat that terrorism poses to democratic institutions and freedoms;

REAFFIRMING that the fight against terrorism must be undertaken with full respect for national and international law, human rights, and democratic institutions, in order to preserve the rule of law, liberties and democratic values in the Hemisphere, which are essential components of a successful fight against terrorism;

CONVINCED that the adoption, ratification, and effective implementation of the Inter-American Convention against Terrorism contribute to the progressive development and the codification of international law;

UNDERSCORING the importance of effective action in cutting off the supply of funds for terrorism, and of coordinated action with international entities competent in the area of money laundering, especially the Inter-American Drug Abuse Control Commission (CICAD);

RECOGNIZING the urgency of strengthening and establishing new forms of regional cooperation against terrorism with a view to its eradication; and

RECOGNIZING the importance and timeliness of the existing international legal instruments on combating terrorism, including the 10 international instruments considered for the text of the Inter-American Convention against Terrorism itself, as well as the Convention to Prevent and Punish the Acts of Terrorism Taking the Forms of Crimes against Persons and Related Extortion That Are of International Significance, adopted by the General Assembly itself on February 2, 1971; the Convention on Offences and Certain Other Acts Committed on Board Aircraft, adopted in Tokyo on September 14, 1963; and the Convention on the Marking of Plastic Explosives for the Purpose of Detection, adopted in Montreal on March 1, 1991,

RESOLVES:

1. To adopt the Inter-American Convention against Terrorism attached to this resolution and to open it for signature by the member states on this date.

2. To urge member states to ratify the Convention as soon as possible, in accordance with their constitutional procedures.

3. To request the Secretary General to present a report to the General Assembly at its thirty-third regular session on progress made toward the Convention's entry into force.

INTER-AMERICAN CONVENTION AGAINST TERRORISM

THE STATES PARTIES TO THIS CONVENTION,

BEARING IN MIND the purposes and principles of the Charter of the Organization of American States and the Charter of the United Nations;

CONSIDERING that terrorism represents a serious threat to democratic values and to international peace and security and is a cause of profound concern to all member states;

REAFFIRMING the need to adopt effective steps in the inter-American system to prevent, punish, and eliminate terrorism through the broadest cooperation;

RECOGNIZING that the serious economic harm to states which may result from terrorist acts is one of the factors that underscore the need for cooperation and the urgency of efforts to eradicate terrorism;

REAFFIRMING the commitment of the states to prevent, combat, punish, and eliminate terrorism; and

BEARING IN MIND resolution RC.23/RES. 1/01 rev. 1 corr. 1, "Strengthening Hemispheric Cooperation to Prevent, Combat, and Eliminate Terrorism," adopted at the Twenty-third Meeting of Consultation of Ministers of Foreign Affairs,

HAVE AGREED TO THE FOLLOWING:

Article 1
Object and purposes

The purposes of this Convention are to prevent, punish, and eliminate terrorism. To that end, the states parties agree to adopt the necessary measures and to strengthen cooperation among them, in accordance with the terms of this Convention.

Article 2
Applicable international instruments

1. For the purposes of this Convention, "offenses" means the offenses established in the international instruments listed below:

   a. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970.

   b. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on September 23, 1971.

   c. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973.

d. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979.

e. Convention on the Physical Protection of Nuclear Material, signed at Vienna on March 3, 1980.

f. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on February 24, 1988.

g. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988.

h. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on March 10, 1988.

i. International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997.

j. International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on December 9, 1999.

2. Upon depositing its instrument of ratification to this Convention, a state party that is not a party to one or more of the international instruments listed in paragraph 1 of this article may declare that, in application of this Convention to such state party, that particular instrument shall be deemed not to be included in that paragraph. The declaration shall cease to have effect as soon as that instrument enters into force for that state party, which shall notify the depositary of this fact.

3. When a state party ceases to be a party to one of the international instruments listed in paragraph 1 of this article, it may make a declaration, as provided in paragraph 2 of this article, with respect to that instrument.

Article 3
Domestic measures

Each state party, in accordance with the provisions of its constitution, shall endeavor to become a party to the international instruments listed in Article 2 to which it is not yet a party and to adopt the necessary measures to effectively implement such instruments, including establishing, in its domestic legislation, penalties for the offenses described therein.

Article 4
Measures to prevent, combat, and eradicate the financing of terrorism

1. Each state party, to the extent it has not already done so, shall institute a legal and regulatory regime to prevent, combat, and eradicate the financing of terrorism and for effective international cooperation with respect thereto, which shall include:

a. A comprehensive domestic regulatory and supervisory regime for banks, other financial institutions, and other entities deemed particularly susceptible to being used for the financing of terrorist activities. This regime shall emphasize requirements for customer identification, record-keeping, and the reporting of suspicious or unusual transactions.

b. Measures to detect and monitor movements across borders of cash, bearer negotiable instruments, and other appropriate movements of value. These measures shall be subject to safeguards to ensure proper use of information and should not impede legitimate capital movements.

c. Measures to ensure that the competent authorities dedicated to combating the offenses established in the international instruments listed in Article 2 have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed under its domestic law. To that end, each state party shall establish and maintain a financial intelligence unit to serve as a national center for the collection, analysis, and dissemination of pertinent money laundering and terrorist financing information. Each state party shall inform the Secretary General of the Organization of American States of the authority designated to be its financial intelligence unit.

2. When implementing paragraph 1 of this article, states parties shall use as guidelines the recommendations developed by specialized international and regional entities, in particular the Financial Action Task Force and, as appropriate, the Inter-American Drug Abuse Control Commission, the Caribbean Financial Action Task Force, and the South American Financial Action Task Force.

Article 5
Seizure and confiscation of funds or other assets

1. Each state party shall, in accordance with the procedures established in its domestic law, take such measures as may be necessary to provide for the identification, freezing or seizure for the purposes of possible forfeiture, and confiscation or forfeiture, of any funds or other assets constituting the proceeds of, used to facilitate, or used or intended to finance, the commission of any of the offenses established in the international instruments listed in Article 2 of this Convention.

2. The measures referred to in paragraph 1 shall apply to offenses committed both within and outside the jurisdiction of the state party.

Article 6
Predicate offenses to money laundering

1. Each state party shall take the necessary measures to ensure that its domestic penal money laundering legislation also includes as predicate offenses those offenses established in the international instruments listed in Article 2 of this Convention.

2. The money laundering predicate offenses referred to in paragraph 1 shall include those committed both within and outside the jurisdiction of the state party.

Article 7
Cooperation on border controls

1. The states parties, consistent with their respective domestic legal and administrative regimes, shall promote cooperation and the exchange of information in order to improve border and customs control measures to detect and prevent the international movement of terrorists and trafficking in arms or other materials intended to support terrorist activities.

2. In this context, they shall promote cooperation and the exchange of information to improve their controls on the issuance of travel and identity documents and to prevent their counterfeiting, forgery, or fraudulent use.

3. Such measures shall be carried out without prejudice to applicable international commitments in relation to the free movement of people and the facilitation of commerce.

Article 8
Cooperation among law enforcement authorities

The states parties shall work closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offenses established in the international instruments listed in Article 2. In this context, they shall establish and enhance, where necessary, channels of communication between their competent authorities in order to facilitate the secure and rapid exchange of information concerning all aspects of the offenses established in the international instruments listed in Article 2 of this Convention.

Article 9
Mutual legal assistance

The states parties shall afford one another the greatest measure of expeditious mutual legal assistance with respect to the prevention, investigation, and prosecution of the offenses established in the international instruments listed in Article 2 and proceedings related thereto, in accordance with applicable international agreements in force. In the absence of such agreements, states parties shall afford one another expeditious assistance in accordance with their domestic law.

Article 10
Transfer of persons in custody

1. A person who is being detained or is serving a sentence in the territory of one state party and whose presence in another state party is requested for purposes of identification,

testimony, or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offenses established in the international instruments listed in Article 2 may be transferred if the following conditions are met:

a. The person freely gives his or her informed consent; and

b. Both states agree, subject to such conditions as those states may deem appropriate.

2. For the purposes of this article:

a. The state to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the state from which the person was transferred.

b. The state to which the person is transferred shall without delay implement its obligation to return the person to the custody of the state from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both states.

c. The state to which the person is transferred shall not require the state from which the person was transferred to initiate extradition proceedings for the return of the person.

d. The person transferred shall receive, for time spent in the custody of the state to which he or she was transferred, credit toward service of the sentence being served in the state from which he or she was transferred.

3. Unless the state party from which a person is to be transferred in accordance with the present article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the state to which that person is transferred in respect of acts or convictions prior to his or her departure from the territory of the state from which said person was transferred.

Article 11
Inapplicability of political offense exception

For the purposes of extradition or mutual legal assistance, none of the offenses established in the international instruments listed in Article 2 shall be regarded as a political offense or an offense connected with a political offense or an offense inspired by political motives. Accordingly, a request for extradition or mutual legal assistance may not be refused on the sole ground that it concerns a political offense or an offense connected with a political offense or an offense inspired by political motives.

Article 12
Denial of refugee status

Each state party shall take appropriate measures, consistent with the relevant provisions of national and international law, for the purpose of ensuring that refugee status is not granted to any person in respect of whom there are serious reasons for considering that he or she has

committed an offense established in the international instruments listed in Article 2 of this Convention.

Article 13
Denial of asylum

Each state party shall take appropriate measures, consistent with the relevant provisions of national and international law, for the purpose of ensuring that asylum is not granted to any person in respect of whom there are reasonable grounds to believe that he or she has committed an offense established in the international instruments listed in Article 2 of this Convention.

Article 14
Nondiscrimination

None of the provisions of this Convention shall be interpreted as imposing an obligation to provide mutual legal assistance if the requested state party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin, or political opinion, or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 15
Human rights

1. The measures carried out by the states parties under this Convention shall take place with full respect for the rule of law, human rights, and fundamental freedoms.

2. Nothing in this Convention shall be interpreted as affecting other rights and obligations of states and individuals under international law, in particular the Charter of the United Nations, the Charter of the Organization of American States, international humanitarian law, international human rights law, and international refugee law.

3. Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including the enjoyment of all rights and guarantees in conformity with the law of the state in the territory of which that person is present and applicable provisions of international law.

Article 16
Training

1. The states parties shall promote technical cooperation and training programs at the national, bilateral, subregional, and regional levels and in the framework of the Organization of American States to strengthen the national institutions responsible for compliance with the obligations assumed under this Convention.

2. The states parties shall also promote, where appropriate, technical cooperation and training programs with other regional and international organizations conducting activities related to the purposes of this Convention.

Article 17
Cooperation through the Organization of American States

The states parties shall encourage the broadest cooperation within the pertinent organs of the Organization of American States, including the Inter-American Committee against Terrorism (CICTE), on matters related to the object and purposes of this Convention.

Article 18
Consultations among the parties

1. The states parties shall hold periodic meetings of consultation, as appropriate, with a view to facilitating:

   a. The full implementation of this Convention, including the consideration of issues of interest relating thereto identified by the states parties; and

   b. The exchange of information and experiences on effective means and methods to prevent, detect, investigate, and punish terrorism.

2. The Secretary General shall convene a meeting of consultation of the states parties after receiving the 10th instrument of ratification. Without prejudice to this, the states parties may hold consultations as they consider appropriate.

3. The states parties may request the pertinent organs of the Organization of American States, including CICTE, to facilitate the consultations referred to in the previous paragraphs and to provide other forms of assistance with respect to the implementation of this Convention.

Article 19
Exercise of jurisdiction

Nothing in this Convention entitles a state party to undertake in the territory of another state party the exercise of jurisdiction or performance of functions that are exclusively reserved to the authorities of that other state party by its domestic law.

Article 20
Depositary

The original instrument of this Convention, the English, French, Portuguese, and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States.

Article 21
Signature and ratification

1. This Convention is open for signature by all member states of the Organization of American States.

2. This Convention is subject to ratification by the signatory states in accordance with their respective constitutional procedures. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

Article 22
Entry into force

1. This Convention shall enter into force on the 30th day following the date of deposit of the sixth instrument of ratification of the Convention with the General Secretariat of the Organization of American States.

2. For each state ratifying the Convention after deposit of the sixth instrument of ratification, the Convention shall enter into force on the 30th day following the deposit by such state of its instrument of ratification.

Article 23
Denunciation

1. Any state party may denounce this Convention by written notification to the Secretary General of the Organization of American States. Denunciation shall take effect one year following the date on which notification is received by the Secretary General of the Organization.

2. Such denunciation shall not affect any requests for information or assistance made during the time the Convention is in force for the denouncing state.